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2004 SEP -9 A 9 25

September 9, 2004

**MEMORANDUM**

**AGENDA ITEM**  
**For Meeting of: 9-09-04**  
**SUBMITTED LATE**

**TO:** The Commission

**FROM:** Scott E. Thomas  
Commissioner 

**SUBJECT:** Amendment re Draft Advisory Opinion 2004-33 (Ripon Society)

I offer the attached as a possible amendment to the draft circulated by the Office of General Counsel. The primary aim of the amendment is to conclude that because the proposed ad constitutes an in-kind contribution, and hence a reportable expenditure, it does not constitute an electioneering communication. See 11 CFR 100.29(c)(3); 104.13(a)(2).

2004 SEP -9 A 9 25

1 ADVISORY OPINION 2004-33

2

3 Jan Witold Baran, Esq.

4 Lee E. Goodman, Esq.

5 Wiley Rein & Fielding, LLP

6 1776 K Street, NW

7 Washington, DC 20006

8

9 Dear Messrs. Baran and Goodman:

10 This responds to your letter dated August 16, 2004, as supplemented by your  
11 letter dated August 24, 2004, on behalf of The Ripon Society ("Ripon") and  
12 Representative Sue Kelly, concerning the application of the Federal Election Campaign  
13 Act of 1971, as amended (the "Act"), and Commission regulations to proposed cable  
14 television advertisements featuring Representative Kelly and paid for by Ripon.

15 ***Background***

16 Ripon is an incorporated non-profit social welfare organization founded in 1962  
17 and exempt from Federal taxes under section 501(c)(4) of the Internal Revenue Code.  
18 Representative Kelly represents the 19<sup>th</sup> Congressional District of New York and is a  
19 candidate in the New York Republican primary election scheduled for September 14,  
20 2004. If Representative Kelly wins the primary election, she will be the Republican  
21 candidate in the general election, which is scheduled for November 2, 2004.  
22 Representative Kelly and a number of other Members of Congress serve on Ripon's  
23 Advisory Board, which you describe as an honorary board consisting of Members of  
24 Congress who participate in Ripon's policy forums, research, development, and  
25 advocacy. However, you state that Representative Kelly and the other Members of  
26 Congress on the Advisory Board "do not engage in active governance or similar control  
27 over Ripon activities."

1           You indicate that Ripon intends to fund the production and dissemination of a  
2 cable television advertisement featuring Representative Kelly. You have provided the  
3 script of the audio portion and a summary of the video portion of the advertisement,  
4 entitled "A Little Safer Now," which are included in Attachment A to this advisory  
5 opinion. You note that Representative Kelly will appear in and narrate the advertisement,  
6 but you state that the video portion of the advertisement, including the "supporting  
7 headlines" and background images presented on screen, will not include any images of,  
8 or references to, any other candidates for Federal office. You state that Ripon intends to  
9 disseminate the advertisement via cable television both within the 19<sup>th</sup> Congressional  
10 District and nationwide through the November 2, 2004 general election. You assert that  
11 the advertisement is "intended to promote a policy Ripon deems relevant to the current  
12 public debate regarding homeland security and post-9/11 security reforms." You also  
13 indicate that Ripon intends to coordinate its plans to disseminate the advertisement with  
14 Representative Kelly, other Federal candidates, and officials of the Republican Party.<sup>1</sup>

15 *Legal Analysis and Conclusions*

16           Your request asks a number of questions concerning two separate areas of law.  
17  
18           (i)   May Ripon, as a corporation prohibited by the Act from funding certain  
19 communications, pay to disseminate "A Little Safer Now" in the manner you  
20 describe? For the reasons explained below, the Commission concludes that Ripon  
21 is prohibited from using its general treasury funds to pay to televise the proposed  
22 advertisement in the 19<sup>th</sup> Congressional District through the November 2, 2004  
23 general election, but may, during that time period, pay to televise the

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<sup>1</sup> Your letter of August 24, 2004 confirms that you seek guidance regarding coordination with one or more Federal political party committees.

1 communication outside the 19<sup>th</sup> Congressional District so long as it does not  
2 coordinate its plans with any officials of the Republican Party.

3 (2) Is Ripon an entity that is "directly or indirectly established, financed,  
4 maintained, or controlled by, or acting on behalf of," one or more Federal  
5 candidates or individuals holding Federal office and therefore subject to funding  
6 prohibitions regarding certain public communications? For the reasons discussed  
7 below, the Commission concludes that Ripon is not such an entity.

8 *1A. Does "A Little Safer Now" expressly advocate the election or defeat of a clearly*  
9 *identified candidate?*

10 The Act prohibits corporations, including corporations organized under 26 U.S.C.  
11 501(c)(4), from making expenditures in connection with any election for Federal office.  
12 2 U.S.C. 441b(a). The Commission regulations implementing this prohibition  
13 specifically provide that corporations may not make expenditures in connection with a  
14 Federal election "for communications to those outside the restricted class that *expressly*  
15 *advocate* the election or defeat of one or more clearly identified candidate(s) or the  
16 candidates of a clearly identified political party." 11 CFR 114.2(b)(2)(ii) (*emphasis*  
17 *added*).

18 The proposed advertisement does not contain any of the illustrative phrases from  
19 11 CFR 100.22(a) or similar phrases, or "individual words, which in context can have no  
20 other reasonable meaning than to urge the election" of Representative Kelly. *Id.* Also,  
21 "[w]hen taken as a whole and with limited reference to external events, it cannot be said  
22 that the advertisement "could only be interpreted by a reasonable person" as advocating  
23 Representative Kelly's election. 11 CFR 100.22(b). Thus, because the advertisement

1 does not contain express advocacy, Ripon may pay to produce and televise it as long as it  
 2 complies with the restrictions on electioneering communications and coordinated  
 3 communications described below.

4 **IB. Does "A Little Safer Now" qualify as an electioneering communication?**

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5  
 6 No. Ripon's proposed advertisements would not be an electioneering  
 7 communication.

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8 With certain exceptions, an "electioneering communication" is any broadcast,  
 9 cable or satellite communication that (1) refers to a clearly identified candidate for  
 10 Federal office; (2) is publicly distributed for a fee within 60 days of a Federal candidate's  
 11 general election or within 30 days of a primary election; and (3) is targeted to the relevant  
 12 electorate. See 2 U.S.C. 434(f)(3) and 11 CFR 100.29; see also Advisory Opinions 2004-  
 13 15 and 2003-12. "Refers to a clearly identified candidate" means that the candidate's  
 14 name, nickname, photograph, or drawing appears, or the identity of the candidate is  
 15 otherwise apparent through an unambiguous reference. 11 CFR 100.29(b)(2). "Publicly  
 16 distributed" means "aired, broadcast, cablecast or otherwise disseminated for a fee  
 17 through the facilities of a television station, radio station, cable television system, or  
 18 satellite system." 11 CFR 100.29(b)(3)(i). In the case of a candidate for Representative  
 19 in Congress, "targeted to the relevant electorate" means the communication can be  
 20 received by 50,000 or more persons in the district the candidate seeks to represent. 2  
 21 U.S.C. 434(f)(3)(C); 11 CFR 100.29(b)(5)(i).

Deleted: If publicly distributed within the 19<sup>th</sup> Congressional District of New York, Ripon's proposed advertisement, however, would not be an electioneering communication if publicly distributed outside the 19<sup>th</sup> Congressional District of New York.

Deleted: Corporations are also prohibited from making or financing "electioneering communications." 2 U.S.C. 441b(b)(2) and 11 CFR 114.2(b)(2)(iii); see also 11 CFR 114.14(a).

22 There are six exemptions from the definition of "electioneering communication."

23 See 2 U.S.C. 434(f)(3)(B)(i) through (iv), and 11 CFR 100.29(c)(1) through (6). Of

Deleted: You state that Representative Kelly will appear and speak on camera. Thus, as you acknowledge, she will be clearly identified in the proposed advertisement. Ripon proposes to televise the advertisement within the 19<sup>th</sup> Congressional District of New York in a manner that would allow it to be received by 50,000 or more people within the district in which Representative Kelly is running for office. Moreover, Ripon plans to pay to disseminate the advertisement via cable television within 30 days of the September 14, 2004 New York primary election and within 60 days of the November 2, 2004 general election. ¶

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Deleted: appears to apply to the proposed advertisement.

1 relevance here is the exemption at 11 CFR 100.29(c)(3): "[any communication that]  
2 [c]onstitutes an expenditure or independent expenditure provided that the expenditure or  
3 independent expenditure is required to be reported under the Act or Commission  
4 regulations." As will be explained further below, the candidate's involvement in the  
5 dissemination of the ads, coupled with other factors present, makes these  
6 communications "coordinated communications" that must be reported by the benefiting  
7 candidate's campaign committee as a contribution received and an expenditure made.  
8 Accordingly, the ads would not qualify as electioneering communications.

9  
10 **1C. Does "A Little Safer New" constitute a "coordinated communication" with**  
11 **respect to (1) Representative Kelly, (2) any other Federal candidate, or (3) any**  
12 **political committee of the Republican Party?**

13 For the reasons stated below, the Commission determines that "A Little Safer  
14 Now" would qualify as a coordinated communication with respect to Representative  
15 Kelly. The Commission further concludes that the communication would not be a  
16 coordinated communication with respect to any other Federal candidate, but would be a  
17 coordinated communication to the extent that any of the conduct standards in 11 CFR  
18 109.21(d) would be satisfied through the involvement of officials of the Republican  
19 Party. A corporation is prohibited from making contributions to Federal candidates or  
20 political party committees, and therefore Ripon may not pay for the proposed  
21 communication if it is coordinated with the Representative Kelly or the Republican Party.

**Deleted:** First, the proposed advertisement would not be disseminated through means other than broadcast, cable or satellite communications. Second, it would not constitute a reportable expenditure or independent expenditure. Third, it would not constitute a candidate debate or forum or promotion of such an event. Fourth, it would not be a communication by local or State candidates. Fifth, this communication would not be made by an entity organized under 26 U.S.C. 501(c)(3). Finally, the advertisement would not appear in a news story, commentary, or editorial distributed through the facilities of any broadcast, cable, or satellite television or radio station. <sup>1</sup>

The Commission therefore concludes that the proposed advertisement constitutes an electioneering communication when disseminated in the manner you describe within the 19<sup>th</sup> Congressional District of New York. Accordingly, because Ripon is a corporation, it may not use general treasury funds to televise the proposed advertisement featuring Representative Kelly in the 19<sup>th</sup> Congressional District of New York within 30 days of the September 14, 2004 New York primary election, or if Representative Kelly wins the primary election within 60 days of the November 2, 2004 general election.<sup>2</sup>

**Deleted:** Although you indicate that the proposed advertisement does not contain references to any clearly identified candidates other than Representative Kelly, it does contain a reference to "Republicans in Congress." The Commission determines that, unlike the examples listed in section 100.29(b)(2) (i.e. "the President," "your Congressman," "the Republican candidate for Senate in the State of Georgia," or "the incumbent"), "Republicans in Congress" does not constitute an unambiguous reference to any specific Federal candidate.<sup>3</sup> Accordingly, the proposed advertisement would not constitute an electioneering communication outside New York's 19<sup>th</sup> Congressional District even if it were televised within 30 days of a primary election or within 60 days of the November 2, 2004 general election.

**Deleted:** does not make any determination as to whether

1           a) Coordinated communication test

2           The Act has long defined as an in-kind contribution an expenditure made by any  
3 person "in cooperation, consultation, or concert, with, or at the request or suggestion of, a  
4 candidate, his authorized political committees, or their agents."

5           2 U.S.C. 441a(a)(7)(B)(i). In the Bipartisan Campaign Reform Act of 2002, Pub. Law  
6 No. 107-155, sec. 214(a), 116 Stat. 81, 94 (Mar. 27, 2002) ("BCRA"), Congress  
7 expanded this definition to include expenditures made by any person "in cooperation,  
8 consultation, or concert, with, or at the request or suggestion of" a political party  
9 committee or its agents. See 2 U.S.C. 441a(a)(7)(B)(ii). The Commission's "coordinated  
10 communication" regulation at 11 CFR 109.21 implements both statutory provisions  
11 through a single three-pronged test. A payment for a communication satisfying each of  
12 the three prongs is made for the purpose of influencing a Federal election, and is an in-  
13 kind contribution to the candidate, authorized committee or political party committee  
14 with whom, or with which, it is coordinated. 11 CFR 109.21(b)(1). Thus, a corporation  
15 is prohibited from using its general treasury funds to pay for a coordinated  
16 communication.

17           (i) *Coordinated Communication - Payment source*

18           The first prong of the definition of a "coordinated communication" specifies that a  
19 communication is coordinated with a candidate or an authorized committee when the  
20 communication is paid for by "a person other than that candidate [or] authorized  
21 committee." 11 CFR 109.21(a)(1).

22           (ii) *Coordinated Communication - Content*

1       The second prong of the definition of "coordinated communication" provides four  
2 content standards. 11 CFR 109.21(c)(1) through (4). A communication will satisfy this  
3 content prong if the communication: (1) is an electioneering communication as defined  
4 in 11 CFR 100.29; (2) disseminates, distributes, or republishes, in whole or in part,  
5 campaign materials prepared by a Federal candidate, the candidate's authorized  
6 committee, or their agents; (3) expressly advocates the election or defeat of a clearly  
7 identified candidate for Federal office; or (4) is a public communication, as defined in 11  
8 CFR 100.26,<sup>4</sup> that refers to a political party or a clearly identified candidate for Federal  
9 office, is publicly distributed or disseminated within one hundred and twenty days of an  
10 election for Federal office, and is directed to voters within the jurisdiction of the clearly  
11 identified candidate or to voters in a jurisdiction in which one or more candidates of the  
12 political party appear on the ballot. 11 CFR 109.21(c)(1) through (4).

13               (iii) *Coordinated Communication - Conduct*

14       The third prong of the "coordinated communication" test is a "conduct standard"  
15 focusing on the interactions between the person paying for the communication and the  
16 candidate, an authorized committee, a political party committee, or agents of the  
17 foregoing. 11 CFR 109.21(a)(3). These conduct standards are set forth in 11 CFR  
18 109.21(d)(1) through (5).

19               b) Coordination with Representative Kelly

20       With respect to Representative Kelly, the Commission concludes that Ripon, as a  
21 corporation, would be prohibited from paying for the advertisement as a coordinated

Deletant does not reach the issue of whether

<sup>4</sup> A "public communication" includes, among other communications, any broadcast, cable, or satellite communication." 11 CFR 100.26



**Deleted:** because the Commission has already determined that the electioneering communications provisions bar Ripos from paying to televise "A Little Safer Now" in the 19<sup>th</sup> Congressional District of New York between August 15, 2004 and November 2, 2004.<sup>1</sup> See discussion above.

1 communication. The ad would fit the fourth prong of the content standard, and  
2 Representative Kelly's participation in the production of the ad would satisfy the conduct  
3 provisions of the Commission's regulation. Specifically, Representative Kelly would be  
4 materially involved in decisions regarding the content of the communication and the  
5 means or mode of the communication. 11 CFR 109.21(d)(2)(i), (iii). Without her  
6 participation in presenting the script and bringing the ad to the viewer, there would be no  
7 such ad at all. See Advisory Opinion 2004-1 (ads featuring candidate for President  
8 treated as in-kind contributions to Presidential candidate because highly implausible there  
9 would not be material involvement in relevant decisions).

10 c) Coordination with Federal candidates other than Representative Kelly

11 The Commission concludes that "A Little Safer Now" would not satisfy any of  
12 the four content standards in 11 CFR 109.21(c) with respect to any other Federal  
13 candidate, and therefore would not constitute a coordinated communication with respect  
14 to any other Federal candidate. The communication does not expressly advocate the  
15 election or defeat of any clearly identified candidate for Federal office, and it does not  
16 constitute an electioneering communication with respect to any candidate other than  
17 Representative Kelly. See 11 CFR 109.21(c)(1) and (3). You confirmed by telephone  
18 that "A Little Safer Now" would not contain any campaign material prepared by any  
19 Federal candidate or authorized committee or agent of either. Therefore it would not  
20 satisfy the third content standard. See 11 CFR 109.21(c)(2). Finally, because the  
21 communication would not refer to any clearly identified candidate for Federal office

1 other than Representative Kelly, the communication would not satisfy the fourth content  
2 standard in 11 CFR 109.21(c) with respect to any other candidate.

3 d) Coordination with the Republican Party

4 Your request indicates that Ripon may satisfy all three prongs of the test for  
5 coordination with the Republican Party. Ripon's payment for "A Little Safer Now"  
6 satisfies the "payment source" prong in 11 CFR 109.21(a). Furthermore, you indicate  
7 that Ripon may discuss its distribution of "A Little Safer Now" with officials of the  
8 Republican Party in a manner that would satisfy the conduct prong in 11 CFR 109.21(d).  
9 Accordingly, you ask whether the communication's reference to "Republicans in  
10 Congress" constitutes a reference to a political party that would, in combination with the  
11 other requirements of the content standard in 11 CFR 109.21(c)(4), satisfy the content  
12 prong. The Commission concludes that it would.

13 Congress amended the Act in BCRA by stating for the first time that an  
14 expenditure made by any person in coordination with a political party committee or its  
15 agents is a contribution to that party committee. See 2 U.S.C. 441a(a)(7)(B)(ii). The  
16 Commission implemented this statutory provision in the context of coordinated  
17 communications by incorporating two political party-related components into the fourth  
18 content standard of 11 CFR 109.21(c) to encompass any communication that refers to a  
19 political party. The fourth content standard of 11 CFR 109.21(c) is the only standard that  
20 is likely to apply where the person paying for a communication has coordinated with a  
21 political party committee or its agents, and that standard will be satisfied if the  
22 communication "refers to a political party."

1 While the fourth content standard of 11 CFR 109.21(c) requires that Federal  
2 candidates be "clearly identified," it does not contain a similar requirement for political  
3 parties. 11 CFR 109.21(c)(4)(i). That portion of the content standard is satisfied if a  
4 communication merely "refers to a political party." *Id.* As you note, "political party" is  
5 defined in 11 CFR 100.15 as an organization that nominates or selects a candidate for  
6 election to any Federal office. The Republican Party, like the Democratic Party, meets  
7 that definition. The use of "Democratic" or "Democrats," or "Republican,"  
8 "Republicans" or "GOP" or other terms that are variations of the formal name of a  
9 political party, is inherently a reference to a political party, whether or not it also serves  
10 other purposes.<sup>6</sup> Thus, any use of these terms satisfies the portion of the fourth content  
11 standard set forth in 109.21(c)(4)(i). In contrast, your contention that "Republicans in  
12 Congress" refers not to a political party but merely to a class of Representatives who  
13 "happen to be Republican" would invite circumvention of the Act. Accordingly, the  
14 Commission concludes that "Republicans in Congress" is a reference to the Republican  
15 Party and therefore satisfies the portion of the fourth content standard set forth in  
16 109.21(c)(4)(i).

17 You also ask whether the result would be different if Ripon were to remove the  
18 words "Republicans in" from the advertisement. The Commission determines that if  
19 Ripon were to remove the term "Republicans in" and make no other changes, the  
20 dissemination of the proposed advertisement outside the 19<sup>th</sup> Congressional District of  
21 New York would not refer to a political party and thus would not satisfy any of the four

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<sup>6</sup> In some cases the terms may also be used as an unambiguous reference to a specific Federal candidate, such as "the Democratic Presidential nominee" or "the Republican candidate for Senate in the State of Georgia." See 11 CFR 100.17 and 100.29(b)(2).

1 standards in the content prong of the coordinated communication test at 11 CFR  
2 109.21(c) with respect to a political party committee.<sup>7</sup>

3 ~~Assuming the foregoing change is not made, though, the proposed advertisement~~  
4 would also satisfy the remaining elements of the fourth content standard in 11 CFR  
5 109.21(c)(4). Ripon's "A Little Safer Now" qualifies as a public communication under  
6 11 CFR 100.26 because it would be disseminated via cable television, and your request  
7 indicates that you intend to televise the communication prior to the November 2, 2004  
8 general election, which is within the applicable 120-day window. See 11 CFR  
9 109.21(c)(4)(ii). Finally, Ripon would direct its communication to voters in a jurisdiction  
10 in which one or more Republican candidates appear on the ballot because it is a  
11 presidential election year and at least one Republican candidate will appear on the ballot  
12 in every district in the upcoming November 2, 2004 election. See 11 CFR  
13 109.21(c)(4)(iii). Therefore, the proposed advertisement would satisfy 11 CFR  
14 109.21(c)(4) and Ripon must not pay for the communication if its interactions with  
15 officials of the Republican Party satisfy any of the conduct standards in 11 CFR  
16 109.21(d).

17 2. *Is Ripon directly or indirectly established, financed, maintained, or controlled*  
18 *by a candidate for Federal office or an individual holding Federal office?*

19 The Commission concludes that Ripon is not directly or indirectly established,  
20 financed, maintained, or controlled by a candidate or Federal officeholder. As explained  
21 below, the issue is relevant to your questions as to whether "A Little Safer Now" is a

<sup>7</sup> For the reasons stated above, Ripon would still be prohibited from using its general treasury funds to televise the communication because it would constitute a coordinated communication with regard to Representative Kelly.

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Deleted: within the 19<sup>th</sup> Congressional District of New York from August 15, 2004 to November 2, 2004. Accordingly, the Commission need not address whether the advertisement would satisfy the content prong of the coordinated communication test within Representative Kelly's district.

1 communication that promotes or supports, or attacks or opposes, any candidate for  
2 Federal office, or promotes or opposes a political party.

3 As amended by BCRA, the Act prohibits entities directly or indirectly established,  
4 financed, maintained, or controlled by, or acting on behalf of, one or more Federal  
5 candidates or individuals holding Federal office<sup>8</sup> from raising or spending funds in  
6 connection with either Federal or non-Federal elections, unless the amounts consist of  
7 Federal funds that are subject to the limitations, prohibitions, and reporting requirements  
8 of the Act. 2 U.S.C. 441i(e)(1); 11 CFR 300.61 and 300.62. For example, such entities  
9 must use Federal funds to pay for "Federal election activity" under 11 CFR 100.24,  
10 which includes any communication that promotes or supports, or attacks or opposes, a  
11 candidate for Federal office or promotes or opposes a political party. See 2 U.S.C.  
12 431(20)(A)(iii) and (21); 11 CFR 300.61, 11 CFR 100.24(b)(3), and 11 CFR 100.25.  
13 Thus, corporations that are directly or indirectly established, financed, maintained, or  
14 controlled by a candidate or Federal officeholder are not permitted to use their general  
15 treasury funds to pay for such communications.

16 To determine whether an entity is directly or indirectly established, financed,  
17 maintained, or controlled by a candidate or Federal officeholder, the Commission  
18 examines the ten factors set out at 11 CFR 300.2(c)(2)(i) through (x) in the context of the  
19 overall relationship between the entity and the candidate or Federal officeholder. 11 CFR  
20 300.2(c)(2); *see also* Advisory Opinion 2003-12.

21 You state that Members of Congress serving on Ripon's Advisory Board "do not  
22 engage in active governance or similar control over Ripon's activities, but instead serve

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<sup>8</sup> Under 2 U.S.C. 431(3), "Federal office" means "the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress." See also 11 CFR 100.4.

1 merely in an *honorary* capacity to advise Ripon from time to time on policy  
2 development" (emphasis in original) and assist Ripon through participation in  
3 conferences and communications. See 11 CFR 300.2(c)(2)(ii). You specify that no  
4 candidate or Federal officeholder has authority over employment matters or Ripon's  
5 employees. See 11 CFR 300.2(c)(2)(iii). Ripon does not share past or current  
6 overlapping membership, employees or officers with any authorized committee of a  
7 Federal candidate. See 11 CFR 300.2(c)(2)(iv) through (vi). In addition, you state that  
8 Federal candidates do not, directly or indirectly, provide funds or goods on an ongoing  
9 basis to Ripon, nor is Ripon aware of any current Member of Congress who played a role  
10 in founding Ripon. See 11 CFR 300.2(c)(2)(vii) through (ix). Finally, you indicate that  
11 there is no similar pattern of receipts or disbursements between Ripon and any campaign  
12 committee of a Federal candidate on its Advisory Board. See 11 CFR 300.2(c)(2)(x).

13       Based on your representations regarding the relationship between Ripon and  
14 Federal candidates and Federal officeholders, the Commission concludes that Ripon is  
15 not an entity that is directly or indirectly established, financed, maintained, or controlled  
16 by a candidate or Federal officeholder and is therefore not subject to the provisions in 2  
17 U.S.C. 441i(e) and 11 CFR 300.61, which govern certain activities of such entities.  
18 Because Ripon is not subject to the restrictions in 2 U.S.C. 441i(e) and 11 CFR 300.61,  
19 the Commission need not address the question of whether "A Little Safer Now" promotes  
20 or supports, or attacks or opposes, any candidate for Federal office, or promotes or  
21 opposes a political party.

22       The Commission expresses no opinion regarding Ripon's qualification for tax-  
23 exempt status under 26 U.S.C. 501(c)(4) or any other ramifications of the proposed

1 activities under the Internal Revenue Code because those questions are outside the  
2 Commission's jurisdiction.

3 This response constitutes an advisory opinion concerning the application of the  
4 Act and Commission regulations to the specific transaction or activity set forth in your  
5 request. See 2 U.S.C. 437f. The Commission emphasizes that, if there is a change in any  
6 of the facts or assumptions presented, and such facts or assumptions are material to a  
7 conclusion presented in this advisory opinion, then the requestor may not rely on that  
8 conclusion as support for its proposed activity.

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Sincerely,

Bradley A. Smith  
Chairman

Enclosures (AOs 2004-15, 2003-12, and 1985-14)

**ATTACHMENT A**

**TELEVISION:** 30 Seconds  
**CLIENT:** Ripon Society  
**PRODUCER:** Bill Greener III  
**TITLE:** A Little Safer Now

| <i>Video</i>  | <i>Audio</i>  |
|---|---|
| Scenes of terrorist activity throughout the world not limited to 9-11 (with support headlines).     | <u>Kelly:</u> We all have to do everything possible to fight terrorism.   |
| Sue Kelly to Camera with chyron i.d.  | Republicans in Congress are working for bipartisan solutions to the challenges we face.                         |
| Man and woman at screen of computer in high-tech situation. Super: Locate The Terrorists Money.     | We're creating new tools to detect and sever the financial lifelines that support terrorist cells.              |
| Picture or video of terrorists being arrested, support headlines. Super: Stop The Terrorists Money. | Shutting down the bankrolls of an enemy that hides in the shadows will do a lot to help make our country safer. |
| Video reinforcing continuing nature of threat. Super: There's More To Be Done.                      | We need to do more, and we will.  |
| Ripon Society Information, including website, phone number, etc. (Disclaimer)                       | The Ripon Society wanted you to have these facts. For more information, contact us.                             |